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SUBJECT: COSTA RICA 2005 TIP REPORT

REF: STATE 3836

The following is Embassy San Jose's submission for the 2005 annual anti-trafficking in persons (TIP) report. Responses are keyed to checklist questions outlined in reftel, beginning at paragraph 21. Post's POC for the report is Political Officer Robert Copley. Telephone number: (506) 519-2253. Fax: (506) 519-2364. Total number of hours spent in preparing the TIP report: Poloff Copley: 45, Political Assistant Hellen Sanou: 20, Political Counselor: 1, Consular: 1, RSO: 1, DCM: 2.

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OVERVIEW  
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21A. Costa Rica is a country mainly of transit, destination and, to a much lesser degree, origin for internationally trafficked men, women, and children. Specific numbers for each population are unavailable, but government and non-government sources agree that women and children constitute the majority of trafficking victims who pass through Costa Rica. Trafficking also occurs within the country's borders. There are currently no comprehensive estimates as to the extent of the problem. Post is aware of a recent G/TIP-funded study by Johns Hopkins University to assess the potential scope of the trafficking problem in Costa Rica. The Ministry of Public Security noted that the number of raids in connection with sexual exploitation crimes nearly doubled last year in relation to 2004, which was double the rate for 2003.

Sources of information for this report include the Chief Prosecutor's Office, the Migration Department, the Public Security Ministry, the Women's Ministry, the Children's Welfare Institution (PANI), the Judicial Investigative Police (OIJ), the OIJ's special trafficking crimes investigative unit, the Legislative Assembly, the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations' Children's Fund (UNICEF), nongovernmental organizations (NGOs) Save the Children Sweden, Defense of Children International, Paniamor, Alianza Por Tus Derechos, Fundacion Rahab, and the press. Women and children are the most at risk of being trafficked.

21B. Persons continued to be trafficked to and through Costa Rica from all over the world during 2005. Police and NGOs reported that main source countries include the Dominican Republic, Colombia, Nicaragua, Guatemala, Ecuador, Cuba, Peru, Russia, China, and the Philippines. Governmental and nongovernmental sources agree that individuals are trafficked internationally mainly to the United States, Canada, Mexico, and Europe. Investigators from the OIJ's trafficking crimes unit said that internal trafficking victims are generally moved from one location to another. IOM continues to report indications of trafficked Russian women in the southern Golfito area. IOM also reported that Dominican women are flown to Panama, and then brought illegally overland into Costa Rica to dance in nightclubs. Once in Costa Rica, they are forced to engage in commercial sex work. Victims are threatened with physical harm if they do not comply with the traffickers' demands, and the traffickers may also threaten to harm the victims' families. The victims' travel documents are routinely seized, and debt bondage is common.

NGO Paniamor reported that some trafficking activities are timed to coincide with the harvest season. Women and children from neighboring countries sometimes voluntarily travel to Costa Rica to engage in commercial sex work with agricultural workers (banana plantations, for example), and later fall into organized networks of commercial sexual exploitation.

Methods used to approach the victims include false offers of lucrative employment. Defense of Children International reported that advertisements via internet and newspapers for hotel staff and models are used to lure females. The Public Security Ministry reported cases of young Costa Rican women who were lured overseas by false employment offers promising a USD 1,500 weekly salary in addition to paid housing. Immigration officials reported a substantial increase in 2005 in the number of apparently poor young women traveling for the first time and alone to destinations such as Japan, Europe, and Canada. These young women believe they have good

jobs waiting for them and appear to have been well briefed on what to say to immigration officers.

Individuals are also trafficked internally in Costa Rica. According to the Ministry of Public Security, people from poor outlying areas are trafficked to the capital of San Jose. People are also trafficked from the capital to the high-tourism areas, such as the Pacific coastal areas of Guanacaste Province and the Caribbean port of Limon.

The GOCR continued to demonstrate political will and to make progress, within its limited resources, against trafficking during 2005. The GOCR has particularly targeted child sexual exploitation.

21C. Lack of resources, particularly funding for police, prosecutors, and shelters for victims severely hampered government efforts to fight trafficking in 2005. The police, judicial investigators, and prosecutors all reported that lack of human and financial resources limited their ability to conduct investigations, carry out undercover operations, acquire technology, and pay informants. The Children's Welfare Institution (PANI) lacks resources to maintain the number of shelters needed to accommodate trafficking and commercial sexual exploitation victims who are minors. There are no shelters specifically for trafficking victims. Save the Children, Defense of Children International, IOM, and ILO all reported that the government lacks the resources to provide victims with rehabilitation services. There is no systematized operation to provide assistance to foreign victims waiting to be repatriated. There are some indications of minor corruption at the local level.

21D. The GOCR does not systematically monitor its anti-TIP efforts. Individual units keep internal statistics but in differing formats, even within the same institution. Trafficking information is shared informally during regular meetings of a national-level committee comprised of government officials and NGOs--the National Commission Against Commercial Sexual Exploitation of Minors (CONACOES).

#### Prevention

22A. The GOCR acknowledges that trafficking is a problem in Costa Rica, especially sexual exploitation of minors. There is some confusion, however, among some government officials about the differences between trafficking, alien smuggling, and commercial sexual exploitation. Some officials use the terms interchangeably. As mentioned above, the majority of efforts and resources in Costa Rica are focused on commercial sexual exploitation of minors.

22B. Government agencies involved in anti-trafficking efforts include the Ministry of Public Security, the Migration Department, the Children's Welfare Institution (PANI), Judicial Investigative Police (OIJ), the Office of the Chief Prosecutor, and the Ombudsman's Office. No agency has the lead, but the investigative, prosecutorial, and judiciary authorities are all part of the independent judicial branch of the Costa Rican Government. As mentioned in 21D above, trafficking activities are informally coordinated through CONACOES. A sub-committee of CONACOES, called the Coalition Against Trafficking was formed in November 2005 to create a more agile working group among the ministries and NGOs that most directly cooperate against trafficking. The coalition is chaired by the Minister of Public Security.

22C. The Migration Department continued a national public information campaign, launched in 2004, and designed to deter tourists who might be interested in sexual tourism. The campaign included posters in airports and placing inserts in immigration documents that warned incoming tourists of the criminal sanctions against sexual exploitation of minors. There are also billboards along the routes to major beach hotels. In December 2005, PANI implemented a national information campaign in conjunction with Microsoft to help school children navigate safely on the Internet. On February 15, 2006, the GOCR launched a series of TV, radio, and billboard ads warning young women of the dangers of commercial sexual exploitation. The ads feature adolescent girls encouraging other girls to reject money or gifts in exchange for travel that could result in sexual exploitation. The ads were designed and financed in cooperation with several international NGO's, UNICRI, and the Italian government.

22D. IOM and the Ministry of Foreign Affairs reported that the GOCR has programs that indirectly help to prevent trafficking. For example, the Women's Ministry has programs that support the role of a mother in ensuring her children remain in school, programs to support adolescent mothers; and programs to involve women in micro-enterprise. The Ministry also provides school vouchers and scholarships to help offset education costs that can be prohibitive to low-income families.

22F. Aside from regular CONACOES meetings, there is no formal mechanism to coordinate communication between agencies involved in combating trafficking. Due to Costa Rica's small size, all members of the anti-trafficking community are well and personally known to each other. Professional jealousies and bureaucratic turf battles occasionally limit effective use of the GOCCR's already-limited resources.

22G. The GOCCR monitors migratory movements of people for evidence of trafficking patterns. Immigration officials at the airports, for example, detected and reported a substantial increase in 2005 in the number of apparently poor young women traveling for the first time and alone to destinations such as Japan, Europe, and Canada. Porous land borders with neighboring Nicaragua and Panama are impossible to effectively monitor for trafficking of all kinds. Immigration officials and NGOs reported female minors aged 12-18 continue to be trafficked, even through formal border checkpoints, in tractor-trailer trucks. Some of these minors are recruited; others look for rides themselves.

22H. As mentioned in 22F above, there is no mechanism for coordination and communication aside from CONACOES, which functions as an informal clearinghouse for information based on the personal relationships among its members. Internationally, the Ministry of Public Security cooperates with other countries' migration departments, Interpol, and the FBI to identify and detain suspected traffickers. The GOCCR also participates in the Commission of Central American Migration Directors (OCAM), which includes trafficking in its general work plan, and the Regional Conference on Migration (CRM). The GOCCR does not have a TIP task force, but a two-year G/TIP-financed program of joint training and equipment donations has improved inter-agency cooperation. The GOCCR has a public corruption task force, which is located in the Office of the Deputy Attorney General for Ethics.

22J. The GOCCR does not have a national action plan to address trafficking in persons. The National Child and Adolescence Plan refers to prevention of trafficking and protection of victims.

#### Investigation and Prosecution of Traffickers

23A-B. In November 2005, the Legislative Assembly ratified a long-awaited reform to Costa Rica's immigration law. The new law, which will enter into force in August 2006, makes alien smuggling a crime for the first time. Costa Rica still does not have a specific law prohibiting trafficking in persons. However, trafficking is proscribed in Title III (known as the Law Against Sexual Exploitation of Minors) and Title XVII (which deals with human rights crimes of an international nature) of the Criminal Code. Articles 156 to 163 of Title III were revised in August 1999 to include sexual crimes against minors. The reforms broadened the situations and conditions under which such crimes are penalized. Lack of a specific law against trafficking makes keeping uniform statistics extremely difficult since not all forms of trafficking are covered under these statutes and not all crimes charged under these statutes constitute trafficking.

Article 169, which criminalizes pimping, states: "Anyone who promotes the prostitution of persons of any gender, maintains them in prostitution, induces them to practice prostitution, or recruits them for this purpose will be sanctioned with a prison term of two to five years. The same sentence will be imposed for those who maintain a person in sexual servitude." Article 170 criminalizes aggravated pimping with a 4-10 year prison term as the penalty for individuals who: pimp minors under 18 years of age; use deceit, violence, abuse of authority, or exploitation of a victim's economic situation; use any means of intimidation or coercion; have a sibling or blood relationship or have a custodial relationship or has a tutor/teacher relationship; or have a relationship of confidence with the victim or the family, regardless of kinship. Under Article 170, the will of the victim (i.e., the victim's consent to engage in prostitution) is considered irrelevant to the offense.

Article 172 deals with international trafficking in persons. It says: "Anyone who promotes, facilitates, or favors the entrance or exit from Costa Rica of persons of any gender so that they may practice prostitution or in order to maintain them in sexual or labor servitude will be sanctioned with a prison term of three to six years." The sentence will be 4-10 years if it involves any aggravating factor enumerated under Article 170 on aggravated pimping (if the victim is a minor, for instance).

Under Title XVII of the Criminal Code on crimes against human rights, Articles 374, 376, and 377 have to do with trafficking. Article 374 covers "crimes of an international character." It states that a prison term of 10-15 years will be imposed upon persons who run or form part of an

organization of an international character dedicated to trafficking slaves, women or children, narcotics, or that carries out acts of terrorism or infringes upon regulations envisaged in treaties subscribed to by Costa Rica to protect human rights.

Article 376 establishes a prison sentence of 2-4 years for individuals who sell, promote, or facilitate the sale of a minor (for domestic service, commercial sex work, or adoption) and receive any type of payment, gratuity, or economic reward for their action. The same sanction is applied to individuals who pay, give a reward, or otherwise remunerate with the purpose of receiving a minor. If the perpetrator of the crime has a blood relationship with the minor, or is the minor's guardian or custodian, or "represents" the minor, the sanction is increased to 4-6 years. The same sentence of 4-6 years is imposed if the perpetrator who sells, promotes, facilitates, or legitimizes in any way the act of the sale of a minor is a professional or public employee. The sanction against professional and public employees also includes a 2-6 year suspension from working in the profession or office they held when they committed the crime.

Article 377 imposes a 5-10 prison term on individuals who promote or facilitate the trafficking of children for adoption with the purpose of selling the child's organs.

These laws are currently being used in trafficking cases. Investigators in the OIJ's special trafficking crimes unit, a juvenile court judge, ILO, IOM, and representatives from several NGOs reported to Poloff that the current legislation is not adequate to cover the full scope of trafficking in persons. The investigators lamented the difficulty of prosecuting cases under the current legislation. IOM and ILO both commented on loopholes in the law. For example, current legislation only penalizes sexual and labor exploitation if the victims have crossed an international border. There is no law against internal (within the borders of Costa Rica) trafficking. CONACOES presented several legal reforms to better define trafficking and to expand the definition in order to criminalize internal trafficking in 2005. The proposed reforms were incorporated into a single bill (Number 14,578) which received unanimous support in the Judicial Committee and now awaits discussion in the plenary.

23C. The penalty for rape ranges from 10-18 years, depending on the relation of the rapist to the victim and the degree of harm done to the health of the victim.

23D. Prostitution for individuals over the age of 18 in Costa Rica is legal. In August 2005, the coordinator for HIV programs at the Costa Rican Social Security Institute (CCSS) estimated the number of female prostitutes in Costa Rica at 8,750, based on surveys of the 2,700 female prostitutes who sought medical treatment at CCSS facilities during 2004. According to this estimate, 40 percent of these women are not Costa Rican (20 percent Nicaraguan, 10 percent Dominican, 6 percent Colombian, and 4 percent other). Pimping is a crime punishable by two to five years in prison. Brothel owners and operators are subject to the same sanctions as pimps. See Article 169 and Article 170 in section 22A-B above (sanctions range from two to ten years in prison). NGOs agree that laws against brothel owners and pimps are insufficiently enforced. The Ministry of Public Security increased the number of raids it carried out on brothels during 2005.

23E. It is difficult to collect significant statistics on the GOCCR's efforts against traffickers. The best measures, given the GOCCR's own emphasis on child sexual exploitation, are cases involving paid sex with children. This is an incomplete measure involving only one aspect of trafficking, but the statistic is uniformly reported by the Supreme Court, allowing year-on-year comparisons. Without a specific law against trafficking, more comprehensive analysis would require physical visits to each court's jurisdiction to review sentences in individual cases. This is prohibitively labor-intensive, even for NGOs.

The Chief Prosecutor's Office, which has its own child sexual exploitation unit, reported 37 investigations during 2005 involving one of the trafficking laws described in question 23 A-B above. At least one of these investigations has resulted in formal trafficking charges. No further information is available, as these cases remain under investigation. According to statistics published by the Supreme Court, 19 cases involving paid sex with minors were investigated by the OIJ trafficking unit during the first 9 months of 2005 for which statistics are available. In all of 2004, prosecutors opened 18 trafficking investigations and obtained convictions in two cases. The Supreme Court will publish final statistics for 2005 in the May-June, 2006 timeframe. At that time, we will also have statistics on the number of 2005 convictions under trafficking laws. The only way to get information on the length of actual sentences is,

as mentioned above, to visit individual courts.

The Child Sexual Exploitation unit of the Ministry of Public Security (police) carried out 59 raids on establishments where child sexual exploitation was suspected in 2005. This is nearly double the 30 raids carried out in 2004. The unit also located and re-arrested 41 convicted pedophiles or repeat rapists who, for a multitude of reasons, were not serving their jail terms. The three-person OIJ special investigative unit that focuses exclusively on trafficking told us it is conducting a delicate investigation of a Costa Rican official allegedly involved in internal trafficking of minors for sexual exploitation.

23F. According to the OIJ trafficking unit, international groups are behind the trafficking operations they are investigating. The heads of the operations are foreigners, who may or may not be physically located in Costa Rica. Uruguayans, Cubans, Dominicans, Colombians, Americans, and Chinese have been identified as heads of trafficking operations. The investigators reported that traffickers often use banks and money exchange centers as part of their operation. NGO Fundacion Rahab reported that traffickers also operate under the guise of travel companies and matrimonial agencies. The Chief Prosecutor's Office reported that some traffickers work freelance and are often also involved in alien smuggling. The successful prosecutions Post is aware of involve small local or regional groups. Post has no reports on where profits from trafficking in persons are being channeled.

23G. The GOCR actively investigates cases of trafficking to the extent financial and personnel resources permit. Undercover operations, electronic surveillance, and mitigated punishment or immunity for cooperating suspects are all legally available to the GOCR. Investigators outside of the capital received training and equipment donations from the Embassy in 2005 in order to enhance their ability to conduct investigations. OIJ investigators in the capital possess some training and equipment but are only able to conduct sporadic operations in the provinces.

23H. The GOCR provides specialized training, particularly to immigration officials, on recognition of trafficking. Several NGOs work closely with the Police Academy and Judicial School to provide sensitivity training for officials on special handling techniques for trafficking victims they may encounter. Investigative and prosecutorial training is not specialized for trafficking.

23I. The GOCR cooperates closely with the U.S. government on investigations and prosecutions of trafficking cases. Post is also aware of an ongoing trafficking case in which Costa Rican and Nicaraguan prosecutors are cooperating closely to collect evidence concerning numerous Nicaraguan minors who were trafficked to Costa Rica during 2005.

23J. The GOCR willingly extradites persons who are charged with trafficking to other countries and cooperates very actively in returning U.S. fugitives. Post is unaware of any U.S. traffickers being located in or extradited from Costa Rica in 2005. Five American Citizens are currently serving jail sentences in Costa Rica for sexual abuse involving minors. Two others were deported to the United States to face sex abuse charges during 2005. The Costa Rican Constitution prohibits extradition of Costa Rican nationals to any jurisdiction; there is no effort to modify this restriction.

23K. NGOs have reported indications of low-level tolerance/involvement of trafficking by immigration officials at border checkpoints. These accounts often consist of border guards accepting sexual favors from trafficking victims in exchange for allowing them to enter Costa Rica without proper documents. Media accounts confirm various kinds of low-level official corruption at the borders. The ongoing OIJ investigation mentioned in paragraph 23E also involves a Costa Rican official.

23L. To Post's knowledge, no Costa Rican official has been prosecuted for trafficking.

23M. Post does not have information on the number of foreign pedophiles the GOCR has prosecuted or deported to their country of origin. Costa Rica's child sexual abuse laws do not have a specific provision for extraterritorial coverage.

23N. ILO Convention 182 was signed by the GOCR on August 17, 2001 and ratified on August 31, 2001. ILO Convention 29 was ratified on May 26, 1960. ILO Convention 105 was ratified on April 17, 1959. The Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography was signed on September 7, 2000 and ratified on February 11, 2002. The Protocol to Prevent, Suppress, and Punish Trafficking in Persons was signed on March 16, 2001 and ratified on November 4, 2002.

## Protection and Assistance to Victims

24A. The Chief Prosecutor's Office has a victims assistance office that trafficking victims can appeal to if they choose to press charges against their trafficker. There is no specialized shelter for trafficking victims. The GOCR does not have trafficking victim care or victim health care facilities. By law, minor victims who are illegally in the country cannot be deported. The Children's Welfare Institution does have general shelters in which it can temporarily place trafficking victims who are minors. The Ministry of Public Security has established coordination with the Chief Prosecutor's office on sex crimes in order to assist trafficking victims with hospitalization (when needed) and legal representation. The Public Security Ministry can provide protection to key witnesses in trafficking cases, but the GOCR lacks a formal witness protection program. According to the Ministry, the GOCR provides economic assistance for two months in addition to a one-time payment of approximately USD 27. The Children's Welfare Institution lacks the budget and personnel to create a specialized center to attend to the needs of young victims.

24B. The GOCR is unable to provide funding or other support to NGOs for services to victims. With its current budget, the GOCR is unable to maintain critical infrastructure such as schools, roads, and hospitals. It simply does not have funding to provide services to trafficking victims beyond the standard emergency services available to anyone.

24C. According to the OIJ trafficking unit, there is no screening or referral process in place to transfer detained victims to NGOs that can provide short- or long-term care. The Public Security Ministry reported that there is a procedure in place to provide assistance and ensure repatriation of victims. The Ministry is working with the IOM and the Children's Welfare Institution to develop an inter-institutional protocol for the handling and repatriation of child trafficking victims.

24D. ILO reported that trafficking victims who are minors are treated as victims and not as criminals, since the legal code on children and adolescents clearly indicates that all such minors are victims. NGO Fundacion Rahab reported that it works with victims to help them overcome fears of cooperating with authorities, and to that end prosecutors take the victims' statements at the NGO's offices. To the extent that adult trafficking victims are confused with illegal aliens, however, they are sometimes treated as criminals and summarily deported. In no case are they prosecuted or fined.

24E. The Ministry of Public Security reported that the GOCR encourages victims to assist in the investigation and prosecution of trafficking. Victims can file civil suits against their traffickers. Victims may remain in Costa Rica, but are also allowed to leave. If they wish to remain, they may apply for work permits. Some nationalities, such as Colombians and Cubans, can easily receive refugee status.

24F. The Children's Welfare Institution is charged with providing protection to victims who are minors. NGO, international organization, and GOCR employees reported that the Institution does not have the resources to provide the necessary services and shelter to victims. There are no shelters run or funded by the GOCR specifically for trafficking victims. The OIJ has a victims' assistance office, but it is a general office for victims of all types of crimes.

24G. A training manual was produced and distributed to all Costa Rican diplomatic missions that provides information on combating trafficking in minors. The ILO and the Migration Department provided training to border officials on how to help prevent trafficking. The training included instruction on the difference between alien smuggling and trafficking; the responsibility of migration officials to prevent, detect, and report trafficking cases they identify; and the officials' obligation to protect trafficking victims.

24H. Post is not aware of any GOCR support for repatriated Costa Ricans who are victims of trafficking.

24I. International Organizations working with trafficking victims include IOM and ILO. International NGOs working with trafficking victims include Defense of Children International and Save the Children Sweden. Local NGOs include Fundacion Rahab, Alianza Por Tus Derechos, and Paniamor. IOM is working on several projects including repatriation of victims and creating a regional network of key governmental figures involved in the fight against trafficking. Fundacion Rahab, with funds from ILO, operates a center in Limon that helps victims who are minors reintegrate back into their homes and schools.

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